

S/N 10/576,439

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Lussier et al.	Examiner:	Bradley, Christina
Serial No.:	10/576,439	Group Art Unit:	1654
Filed:	January 5, 2007	Docket No.:	09555.0151USWO
Customer No.:	23552	Confirmation No.:	4659
Title:	USE OF GROWTH HORMONE RELEASING FACTOR ANALOGS IN TREATING PATIENTS SUFFERING FROM WASTING		

Filed EFS-WEB

RESPONSE TO RESTRICTION REQUIREMENT OFFICE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

In response to the Office Action mailed October 27, 2009, Applicants request consideration of the following remarks.

The Office Action alleges the claims are directed to more than one species of GRF analog and requires election of a single species of GRF analog of formula A. Without acquiescing to the Examiner's statements made in the Office Action, Applicants elect the following GRF analog of formula A: (hexenoyl trans-3)hGRF(1-44)NH₂ (SEQ ID NO: 7), for prosecution on the merits. Claims 3-24, 50-56, and 74-80 are readable on the elected species of GRF analog of formula A.

The Office Action also alleges the claims are directed to the following patentably distinct species of the conditions recited in claim 16 (chronic obstructive pulmonary disease, chronic renal failure, congestive hear failure, human immunodeficiency virus infection, acquired immunodeficiency syndrome, cancer, malnutrition, frailty, immobilization paraplegia and spinal disorder) and requires election of a single species of the conditions. Without acquiescing to the Examiner's statements made in the Office Action, Applicants elect the following condition: chronic obstructive pulmonary disease, for prosecution on the merits. Claims 3-24 are readable on the elected condition.

It is acknowledged in the Office Action at page 3 that claims 3-6, 8-24, 50-55 and 74-79 are generic to the GRF analog of formula A, and that claims 3-24 are generic to the condition. Upon indication of allowance of a generic claim, Applicants note they are entitled to search and consideration of additional species which depend from or otherwise include all the limitations of an allowable generic claim as provided by 37 C.F.R. § 1.141. See MPEP § 809.02(a).

The present specie elections are made without prejudice or disclaimer as to any non-elected subject matter.

Favorable examination is respectfully requested. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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Date: November 24, 2009



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